

Message Text

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PAGE 01 USUN N 01842 100058Z
ACTION SS-25

INFO OCT-01 ISO-00 SSO-00 /026 W
-----100605Z 010481 /12
R 092320Z JUN 77
FM USMISSION USUN NEW YORK
TO SECSTATE WASHDC 3963
INFO AMEMBASSY SEOUL

C O N F I D E N T I A L USUN 1842

EXDIS

E.O. 11653 GDS
TAGS: PFOR, UN, KS
SUBJECT: ATTEMPT BY US CONGRESS TO SUBPOENA BANK RECORDS
OF KOREAN UN MISSION

REF: A) STATE 132298; B) STATE 132653

1. AMBASSADOR LEONARD AND MISOFF CONVEYED VIEWS CONTAINED
REFTELS TO AMB. MOON AND COUNSELLOR PARK OF KOREAN MISSION.

2. THEY RECORDED THEIR STRONG DISAGREEMENT WITH DEPARTMENT'S
CONCLUSION IN PRIOR INSTANCE AND THIS ONE THAT THEIR INVIOABILITY
DID NOT EXTEND TO BANK RECORDS. THEY ARGUED THAT BANK ACCOUNTS
WERE ESSENTIAL TO FUNCTIONING OF DIPLOMATIC MISSION AND THAT
US CASES CONCERNING UNRELATED CONSTITUTIONAL QUESTIONS COULD
NOT EFFECT INVIOABILITY OF ACCOUNTS UNDER INTERNATIONAL LAW.
WE EXPLAINED DISTINCTION BETWEEN THE ACCOUNT AS SUCH AND THE
BANK'S RECORDS BUT THEY WERE UNCONVINCED.

3. AMB. MOON ALSO COMPLAINED THAT IMPRESSION HAD BEEN CONVEYED
BY AMB. SNEIDER IN SEOUL THAT KOREAN OBSERVER MISSION IN NY HAD
"NO OFFICIAL STATUS." HE ASKED WHETHER AMB. LEONARD REGARDED
MISSION AS OFFICIAL REPRESENTATIVES OF ROK. AMB. LEONARD
ASSURED HIM WE DID AND SAID DEPARTMENT RECOGNIZED THEIR
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STATUS AND THEIR ENTITLEMENTS PURSUANT TO INTERNATIONAL
ORGANIZATIONS IMMUNITIES ACT. AMB. MOON SOMEWHAT MOLLIFIED ON
THIS ASPECT.

4. AMB. MOON SAID FACT THEY AGREED TO NEOGITATED SETTLEMENT
WITH JUSTICE SOME TIME AGO DID NOT MEAN THEY AGREED BANK
RECORDS WERE NOT INVIOABLE. HE SAID THEY HAD AGREED FOR

POLITICAL REASONS AND WANTED US RECOGNIZE THEY HAD NOT WAIVED THEIR RIGHT TO ASSERT IMMUNITY OR ALTERED THEIR VIEWS THAT THEY WERE LEGALLY ENTITLED TO IMMUNITY. HE SAID THEY HAD FORMALLY REQUESTED BANK TO TREAT THEIR RECORDS AS CONFIDENTIAL.

5. AMB MOON SIAD HE COULD NOT ESCAPE BELIEF THAT DEPARTMENT HAD NOT TRIED TO REACH A MORE HELPFUL LEGAL CONCLUSION BECAUSE OF THE CIRCUMSTANCES SURROUNDING THE CASES, I.E., AS HE PUT IT, "THE UNFORTUNATE SCANDAL". HE EXPRESSED VIEW AMERICAN EMBASSIES ABROAD WOOULD PROTEST STRONGLY ANY ATTEMPT TO SUBPOENA THEIR RECORDS AND THAT OTHER MISSIONS TO UN WOULD BE DISTRESSED IF THEY THOUGHT THEIR BANK RECORDS COULD BE SUBPEONAED. AMB. LEONARD SAID DEPARTMENT ALWAYS SOUGHT TO HELP OUR FRIENDS BUT WHEN THE LEGAL BASIS DID NOT EXIST THERE MIGHT BE LITTLE DEPARTMENT COULD DO.

6. AMB. MOON STATED THAT ALTHOUGH ROK HAD AGREED TO NEGOTIATED SETTLEMENT IN PREVIOUS CASE FOR POLITICAL REASONS, HE SIMPLY DID NOT KNOW WHAT DECISION WOULD BE THIS TIME. HE SAID HE WOULD HAVE TO AWAIT INSTRUCTIONS.

7. AMB. MOON URGED THAT DEPARTMENT RECONSIDER ITS LEGAL POSITION AND IN ANY EVENT EXPLORE ALTERNATIVE MEANS OF PERSUADING CONGRESS TO DROP THE REQUEST. WE AGREED TO FORWARD HIS REQUEST TO DEPARTMENT BUT NOTED SEPARATION OF POWERS UNDER US CONSTITUTION BETWEEN EXECUTIVE AND LEGISLATIVE AND SUGGESTED ON PERSONAL BASIS HE MIGHT CONSIDER EXTENT TO WHICH EFFORTS BY EXECUTIVE NOT GROUNDED ON FIRM LEGAL BASE COULD GENERATE RESENTMENT AND ADVERSE PUBLICITY, NET EFFORT OF CONFIDENTIAL

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WHICH COULD BE COUNTERPRODUCTIVE FROM BOTH OUR POINTS OF VIEW.

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Message Attributes

Automatic Decaptioning: Z
Capture Date: 01-Jan-1994 12:00:00 am
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: INTERNATIONAL LAW, DIPLOMATIC DISCUSSIONS
Control Number: n/a
Copy: SINGLE
Sent Date: 09-Jun-1977 12:00:00 am
Decaption Date: 22 May 2009
Decaption Note: 25 YEAR REVIEW
Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 22 May 2009
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1977USUNN01842
Document Source: CORE
Document Unique ID: 00
Drafter: n/a
Enclosure: n/a
Executive Order: GS
Errors: N/A
Expiration:
Film Number: D770207-0295
Format: TEL
From: USUN NEW YORK
Handling Restrictions:
Image Path:
ISecure: 1
Legacy Key: link1977/newtext/t19770671/aaaackmn.tel
Line Count: 100
Litigation Code IDs:
Litigation Codes:
Litigation History:
Locator: TEXT ON-LINE, ON MICROFILM
Message ID: 6c0cee7f-c288-dd11-92da-001cc4696bcc
Office: ACTION SS
Original Classification: CONFIDENTIAL
Original Handling Restrictions: EXDIS
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 2
Previous Channel Indicators: n/a
Previous Classification: CONFIDENTIAL
Previous Handling Restrictions: EXDIS
Reference: 77 STATE 132298, 77 STATE 132653
Retention: 0
Review Action: RELEASED, APPROVED
Review Content Flags:
Review Date: 22-Mar-2005 12:00:00 am
Review Event:
Review Exemptions: n/a
Review Media Identifier:
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
SAS ID: 2207392
Secure: OPEN
Status: NATIVE
Subject: ATTEMPT BY US CONGRESS TO SUBPOENA BANK RECORDS OF KOREAN UN MISSION
TAGS: PFOR, PGOV, KS, UN
To: STATE
Type: TE
vdkgvwkey: odhc://SAS/SAS.dbo.SAS_Docs/6c0cee7f-c288-dd11-92da-001cc4696bcc
Review Markings:
Margaret P. Grafeld
Declassified/Released
US Department of State
EO Systematic Review
22 May 2009
Markings: Margaret P. Grafeld Declassified/Released US Department of State EO Systematic Review 22 May 2009